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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,028	02/10/2004	Luis Cavada	074104.0113	9060
23640	7590	03/21/2006	EXAMINER	
BAKER BOTTS, LLP			FUQUA, SHAWNTINA T	
910 LOUISIANA			ART UNIT	
HOUSTON, TX 77002-4995			PAPER NUMBER	

3742

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/776,028	CAVADA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shawntina T. Fuqua	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20, 22-36 and 58-70 is/are pending in the application.
- 4a) Of the above claim(s) is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 20, 22-36, 58-65 and 70 is/are rejected.
- 7) ☒ Claim(s) 18, 19 and 66-69 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/20/05</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-17, 20, 22-36, 58-65, and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ingemanson et al (US6670586) in view of Tay et al (US6707011).

Ingemanson et al discloses an infrared oven comprising a housing (5), a chamber (9), a first infrared heater (15A), a second infrared heater (15B) which emit radiant heat at a desired infrared wavelength (column 3, lines 21-26), heat reflectors (95) to evenly distribute radiant heat, a shelf/rack/tray (30), a door (22), the heater is an electrically conductive filament (column 3, line 20) comprised of Nichrome (Ni and chromium) wherein the filament is inside a quartz tube (column 3, lines 19-21), total power drawn does not exceed 1500 watts (column 3, lines 19-40), a controller/digital processor for independently controlling the heaters at a plurality of wavelengths (column 4, lines 50-65), heaters are located above and below the food (Figure 1A), a user interface coupled to the digital processor to input food choices for cooking the food from cooking routines (Table 4), and an inner surface of door and chamber being reflective (column 2, lines 53-55). Ingemanson et al does not disclose a gold coating over a portion of the glass tube, and heating at infrared wavelengths from about 1-3 microns. Tay et al discloses a gold coating over a portion of the glass tube (column 8, lines 52-64). It would have been obvious to one of

ordinary skill in the art at the time the invention was made to have included the gold coating of Tay et al on the lamps of Ingemanson et al because, a gold coating optimizes the amount of radiant energy delivered from the lamps to the chamber.

Ingemanson et al in view of Tay et al discloses the claimed invention except for heating at infrared wavelengths from about 1-3 microns. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included heating at infrared wavelengths from about 1-3 microns, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

### ***Response to Arguments***

3. Applicant's arguments filed 12/20/05 have been fully considered but they are not persuasive. Applicant argues that Tay et al in non-analogous art because the temperatures at which Tay et al heats would carbonize food. Tay et al was not cited for the temperature at which it heats. Tay et al was cited to show a glass tube with a gold coating over a portion of the glass tube and is analogous because it is an oven which is in the field of endeavor of Applicant's invention.

### ***Allowable Subject Matter***

4. Claims 18-19, and 66-69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

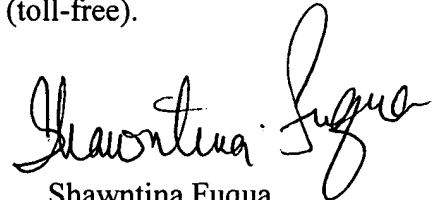
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawntina T. Fuqua whose telephone number is (571) 272-4779. The examiner can normally be reached on Monday-Friday 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

stf  
March 18, 2006

  
Shawntina Fuqua  
Patent Examiner  
Art Unit 3742